

REMARKS

In response to the Office Action mailed on April 1, 2001, Applicants have amended the claims in order to render moot the outstanding 112 rejections. Also, the non-elected claims are canceled. For the reasons set forth below these amendments should place this application in condition for allowance.

The Office Action states that the specification does not include a paragraph wherein the priority claims are listed immediately after the Title. Based thereon the Examiner states that the only priority claim considered is July 10, 2003 based on provisional No. 60/485,745. Applicants respectfully disagree. In fact, paragraph [001] of the application states the following:

“This application claims priority from U.S. Provisional Application Ser. No. 60/485,745 filed Jul. 10, 2003, U.S. Provisional Application Ser. No. 60/287,413, filed May 1, 2001, and to U.S. Utility application Ser. No. 10/133,573 filed Apr. 29, 2002, all of which are incorporated herein by reference in their entireties.”

Withdrawal of this objection is respectfully requested.

Claims 1-5, 7-15 and 18-26 stand rejected under the written description requirement. This rejection is respectfully traversed.

The written description objection regarding the scope of the genus of epithelial sodium channel subunits embraced by the subject claims should be addressed by the present amendments. The Examiner noted in the basis of the rejection that the prior genus was not adequately described as the claims either did not require a specific sequence and/or included all “variant, fragment or functional equivalent” of the recited subunits. However, this is no longer the case.

Claim 1 now requires that the delta, beta and gamma subunits possess at least 95% sequence identity to sequences recited in the application. Applicants note that the delta subunit is defined in relation to the polypeptide in SEQ ID NO:8 because, as properly noted by the Examiner, SEQ ID NO:7 contains an obvious error (omission of a single nucleotide). This does not impact the Election as it is clear from the specification that the exemplified delta subunit has

this sequence. Also, it would be well within the level of skill in the art to identify polypeptides that possess at least 95% sequence identity to the recited sequences which form a functional ENaC that responds to lithium.

The objection as to assays using any anion rather than lithium is moot in view of the present amendments.

The objection to the source of the subject subunits is respectfully traversed. While kidney was exemplified it is known that taste cells also express these channel polypeptides. In fact this is the rationale of the subject assay, i.e., to identify taste modulatory compounds.

Based on the foregoing withdrawal of the rejection of claims 1-5, 7-15 and 18-26 under 35 USC 112 first paragraph is respectfully requested.

Claims 1-5, 7-15 and 18-26 are also rejected under 35 USC 112 second paragraph. The objection to the claims as referring to SEQ ID NO:7 is moot. As correctly recognized by the Examiner SEQ ID NO:8 contains the correct sequence for the delta subunit and SEQ ID NO:7 contains an obvious error (omission of a single nucleotide).

Claim 1 is also asserted to be unclear in how the process steps correlate to the identification of a ENaC modulator. This criticism should be moot based on the present amendment of claim 1. The claim has been rewritten to make clear that the detected change is fluorescence is used to assess whether the putative modulator in fact functions as an ENaC modulator. Also, the objection to claim 5 is moot as the claim is canceled.

Based on the foregoing withdrawal of the rejection of claims 1-5, 7-15 and 18-26 under 35 USC 112 second paragraph is respectfully requested.

Claims 1-5, 7-15 and 18-26 also stand rejected under 35 USC 102(a) and (e) respectively over WO 02/087306 and US 2004/0072254. These rejection should be vacated as the subject application claims priority to the same US published application which is the US counterpart of the cited PCT application. See paragraph [001] of this application.

Accordingly neither of these references qualifies as prior art to the claimed invention. Therfore, withdrawal of the rejection of Claims 1-5, 7-15 and 18-26 under 35 USC 102(a) and (e) based on WO 02/087306 and US 2004/0072254 is respectfully requested.

Based on the foregoing, Applicants respectfully submit that this application is in condition for allowance. A notice to tat effect is respectfully solicited.

No fees are believed to be required for this Amendment Reply. However, in the event that any fees are deemed necessary, the Commissioner is authorized to charge the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

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